

House Study Bill 700 - Introduced

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON
NATURAL RESOURCES BILL BY
CHAIRPERSON BELL)

A BILL FOR

1 An Act creating a natural resources and outdoor recreation
2 trust fund to implement a proposed amendment to the
3 Constitution of the State of Iowa, and providing for
4 contingent implementation.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SUBCHAPTER I

GENERAL PROVISIONS

Section 1. NEW SECTION. 461.1 Title.

This Act shall be known and may be cited as the natural resources and outdoor recreation Act.

Sec. 2. NEW SECTION. 461.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. "*Department*" means the department of agriculture and land stewardship, the department of natural resources, or the department of transportation.

2. "*Fiscal year*" means the state fiscal year effective as provided in section 3.12.

3. "*Initiative*" includes a program, project, practice, strategy, or plan established or administered by an agency that furthers a constitutional purpose as provided in section 461.3.

4. "*Recreational purpose*" includes hunting, trapping, angling, horseback riding, swimming, boating, camping, picnicking, hiking, bird watching, nature study, water skiing, snowmobiling, other summer and winter sports, and viewing or enjoying historical, archaeological, scenic, or scientific sites.

5. "*Trust fund*" means the natural resources and outdoor recreation trust fund created in section 461.3.

6. "*Trust fund moneys*" means moneys originating from the natural resources and outdoor recreation trust fund.

Sec. 3. NEW SECTION. 461.3 Constitutional purpose and implementation.

1. This chapter is created for the constitutional purposes of protecting and enhancing water quality and natural areas in this state including parks, trails, and fish and wildlife habitat, and conserving agricultural soils in this state.

2. This chapter is intended to implement Article VII, section 10 of the Constitution of the State of Iowa by establishing the natural resources and outdoor recreation

1 trust fund, accounts in the trust fund, and appropriating or
2 allocating trust fund moneys to support initiatives specified
3 in subchapter IV.

4 SUBCHAPTER II
5 PARTICIPATION

6 Sec. 4. NEW SECTION. 461.11 Departmental consultation.

7 1. When making decisions regarding the expenditure of
8 trust fund moneys affecting soil and water conservation, the
9 secretary of agriculture shall regularly consult with the
10 soil conservation committee established in section 161A.4.
11 When making decisions regarding the expenditure of trust fund
12 moneys affecting natural resources and outdoor recreation the
13 director of the department of natural resources shall regularly
14 consult with the natural resource commission established
15 pursuant to section 455A.5. When making decisions regarding
16 the expenditure of trust fund moneys affecting trails, the
17 department of transportation shall consult with the state
18 transportation commission as provided in chapter 307A.

19 2. The heads of each department receiving trust fund moneys
20 shall regularly meet and whenever practicable collaborate in
21 decision-making including by adopting rules, establishing
22 funding priorities, and determining when it is beneficial to
23 provide joint funding of initiatives.

24 SUBCHAPTER III
25 ADMINISTRATION

26 Sec. 5. NEW SECTION. 461.21 Audit.

27 1. The treasurer of state shall certify monthly that trust
28 fund moneys are allocated to the various funds and accounts as
29 provided in subchapter IV.

30 2. The auditor of state or a certified public accounting
31 firm appointed by the auditor of state shall conduct an annual
32 audit of the trust fund and all accounts and transactions of
33 the trust fund and accounts.

34 3. The auditor of state or the certified public accounting
35 firm appointed by the auditor as provided in subsection 2 shall

1 be paid from trust fund moneys without reducing the percentage
2 of trust fund moneys distributed to any one account established
3 pursuant to this chapter.

4 Sec. 6. NEW SECTION. 461.22 Report.

5 The three departments together with the treasurer of state
6 and the auditor of state shall jointly prepare and submit to
7 the governor and the general assembly not later than January
8 15 of each year a complete report in an electronic format
9 detailing all of the following:

10 1. A description of public hearings and meetings required
11 to be conducted pursuant to subchapter II, any results that
12 impacted upon departmental decision-making, and a plan for
13 conducting public hearings and meetings in the following year.

14 2. The receipts and expenditures of the trust fund and its
15 accounts, a summary of initiatives supported by trust fund
16 moneys, the results of those expenditures, any performance
17 goals or measurements, and plans for future short-term or
18 long-term expenditures.

19 3. Recommendations to the general assembly, including
20 legislation proposed by one or more of the departments.

21 Sec. 7. NEW SECTION. 461.23 Rules.

22 The treasurer of state, the auditor of state, the
23 department of revenue, and the department of agriculture and
24 land stewardship, the department of natural resources, and
25 department of transportation shall adopt rules separately or
26 jointly as necessary in order to implement and administer this
27 chapter.

28 SUBCHAPTER IV

29 NATURAL RESOURCES AND OUTDOOR RECREATION TRUST FUND
30 AND DISTRIBUTIONS TO SUPPORT DEDICATED PURPOSES

31 Sec. 8. NEW SECTION. 461.31 Natural resources and outdoor
32 recreation trust fund — creation.

33 A natural resources and outdoor recreation trust fund is
34 created within the state treasury.

35 1. The trust fund shall be composed of moneys required to

1 be credited to the trust fund by law and moneys accepted by
2 a department for placement in an account established in this
3 subchapter and from any source.

4 2. Trust fund moneys are exclusively appropriated by law
5 to carry out the constitutional purposes provided in section
6 461.3.

7 3. Trust fund moneys shall supplement and not replace
8 moneys appropriated by the general assembly to support the
9 constitutional purposes provided in section 461.3.

10 4. Trust fund moneys shall only be used to support voluntary
11 initiatives and shall not be used for regulatory efforts,
12 enforcement actions, or litigation.

13 5. In administering a trust fund account, a department
14 may contract, sue and be sued, and authorize payment for
15 costs, fees, commissions, and other reasonable expenses from
16 the account. However, a department shall not in any manner
17 directly or indirectly pledge the credit of this state.

18 6. Notwithstanding section 8.33, any unexpended balance in
19 the trust fund or in an account created within the trust fund
20 at the end of each fiscal year shall be retained in the trust
21 fund or the respective account. Notwithstanding section 12C.7,
22 subsection 2, interest or earnings on investments or time
23 deposits of the moneys in the trust fund and its respective
24 accounts shall be credited to the trust fund and its respective
25 accounts. The recapture of awards originating from an account
26 and other repayments to an account shall be retained in that
27 account.

28 **Sec. 9. NEW SECTION. 461.32 Outdoor recreation account**
29 **— allocations.**

30 An outdoor recreation account is created in the trust fund.
31 Twenty-three percent of the moneys credited to the trust fund
32 shall be allocated to the account.

33 1. The account shall be used by the department of natural
34 resources to support all of the following initiatives:

35 a. The maintenance and improvement of state parks, state

1 preserves, wildlife areas, wildlife habitats, native prairies,
2 and wetlands.

3 *b.* Wildlife diversity.

4 *c.* Recreational purposes.

5 *d.* Technical assistance and financial incentives to private
6 landowners to promote the management of forests, fisheries,
7 wetlands, and wildlife.

8 *e.* The improvement of water trails, rivers, and streams.

9 *f.* Education and outreach that provide instruction regarding
10 natural history and the outdoors. The subjects of such
11 instruction may relate to opportunities involving recreational
12 purposes, outdoor safety, and ethics.

13 *g.* State conservation law enforcement.

14 2. The department of natural resources shall to every extent
15 possible consider its comprehensive plan provided in section
16 456A.31 when making funding decisions.

17 3. The department of natural resources may allocate trust
18 fund moneys to the state fish and game protection fund, the
19 state conservation fund, or the county conservation board fund,
20 all as created in section 456A.17, or the forestry management
21 and enhancement fund created in section 456A.21.

22 **Sec. 10. NEW SECTION. 461.33 Soil conservation and water**
23 **protection account — allocations.**

24 A soil conservation and water protection account is created
25 in the trust fund. Twenty percent of the moneys credited to
26 the trust fund shall be allocated to the account.

27 1. The account shall be used by the department of
28 agriculture and land stewardship to support all of the
29 following initiatives:

30 *a.* Soil conservation and watershed protection, including
31 by supporting the soil conservation division of the department
32 of agriculture and land stewardship and soil and water
33 conservation district commissioners. The department may
34 provide for the installation of conservation practices and
35 watershed protection improvements as provided in chapters 161A,

1 161C, 461A, 466, and 466A.

2 *b.* The conservation of highly erodible land. The department
3 of agriculture and land stewardship may execute contracts with
4 private landowners who agree to reserve such land only for uses
5 that prevent erosion in excess of the applicable soil loss
6 limits as established in section 161A.44.

7 *c.* Soil conservation or crop management practices used
8 on land producing biomass as a feedstock for biorefineries,
9 including cellulosic ethanol production.

10 2. The department of agriculture and land stewardship may
11 use the account to provide financial incentives or technical
12 assistance to landowners.

13 3. The department of agriculture and land stewardship
14 may allocate trust fund moneys to the conservation practices
15 revolving loan fund established in section 161A.71, the
16 blufflands protection program and revolving fund created in
17 section 161A.80, the Loess hills development and conservation
18 fund created in section 161D.2, the southern Iowa development
19 and conservation fund created in section 161D.12, and the
20 agricultural drainage well water quality assistance fund
21 created in section 460.303.

22 Sec. 11. NEW SECTION. **461.34 Watershed protection account**
23 **— allocations.**

24 A watershed protection account is created in the trust fund.
25 Fourteen percent of the moneys credited to the trust fund shall
26 be allocated to the account.

27 1. The account shall be used cooperatively by the department
28 of natural resources and the department of agriculture and land
29 stewardship to support all of the following initiatives:

30 *a.* Water resource projects administered by the department
31 of natural resources to preserve watersheds, including but not
32 limited to all of the following:

33 (1) Projects to protect, restore, or enhance water quality
34 in the state through the provision of financial assistance to
35 communities for impairment-based, locally directed watershed

1 projects. The department may use the account to support the
2 water resource restoration sponsor program as provided in
3 section 455B.199.

4 (2) Regional and community watershed assessment, planning,
5 and prioritization efforts, including as provided in chapter
6 466B.

7 b. Surface water protection projects and practices
8 administered by the department of agriculture and land
9 stewardship or the department of natural resources, including
10 but not limited to the installation of permanent vegetation
11 cover, filter strips, grass waterways, and riparian forest
12 buffers; dredging; and bank stabilization. The departments
13 of agriculture and land stewardship and natural resources
14 may use the account to support the conservation buffer strip
15 program provided in section 466.4 and the conservation reserve
16 enhancement program as provided in section 466.5.

17 2. The departments' decision to prioritize initiatives may
18 be based on the priority list of watersheds provided in section
19 456A.33A.

20 3. The department of agriculture and land stewardship may
21 allocate trust fund moneys to the water protection fund created
22 in section 161C.4, the organic nutrient management fund created
23 pursuant to section 161C.5, or the watershed improvement fund
24 created in section 466A.2.

25 Sec. 12. NEW SECTION. 461.35 Iowa resources enhancement and
26 protection fund — allocation.

27 Thirteen percent of the moneys credited to the trust
28 fund shall be allocated to the Iowa resources enhancement
29 and protection fund created in section 455A.18 for further
30 allocation as provided in section 455A.19.

31 Sec. 13. NEW SECTION. 461.36 Local conservation partnership
32 account — allocations.

33 A local conservation partnership account is created in the
34 trust fund. Thirteen percent of the moneys credited to the
35 trust fund shall be allocated to the account.

1 1. The department of natural resources shall allocate
2 trust fund moneys in the account to local communities for the
3 following initiatives:

4 a. The maintenance and improvement of parks, preserves,
5 wildlife areas, wildlife habitats, native prairies, and
6 wetlands.

7 b. Wildlife diversity.

8 c. Recreational purposes.

9 d. The improvement of water trails, rivers, and streams.

10 e. Education and outreach programs and projects that provide
11 instruction regarding natural history and the outdoors. The
12 subjects of such instruction may relate to opportunities
13 involving recreational purposes, outdoor safety, and ethics.

14 f. Any other purpose described in section 350.1.

15 2. A local community may cooperate with the state or the
16 federal government to carry out the initiative. Two or more
17 local communities may form an entity if allowed under chapter
18 28E in order to carry out the initiative.

19 3. As used in this section, "*local community*" means a county
20 conservation board, a city, or a nongovernmental organization
21 operating on a nonprofit basis.

22 Sec. 14. NEW SECTION. **461.37 Trails account — allocations.**

23 A trails account is created in the trust fund. Ten percent
24 of the moneys credited to the trust fund shall be allocated to
25 the account.

26 1. The department of transportation and the department
27 of natural resources shall allocate moneys in the account to
28 support initiatives related to the design, establishment,
29 maintenance, improvement, and expansion of land trails.

30 a. The land trails may be for equestrian use, bicycles,
31 walking, hiking, nature study, or cross-country skiing.

32 b. The departments may provide for trails on land in which
33 the department of transportation or the department of natural
34 resources has acquired rights as scenic easements as defined
35 in section 308.3.

1 2. The department of transportation may use the account
2 to support integrated roadside vegetation management planning
3 and projects as provided in section 314.22. The department of
4 transportation may deposit a portion of the trust fund moneys
5 in the living roadway trust fund as provided in section 314.21.

6 3. The department of natural resources may use the account
7 to support the design, establishment, maintenance, improvement,
8 and expansion of water trails. The department of natural
9 resources may use the account to implement the water trails
10 and low head dam public hazard statewide plan as provided in
11 section 464A.11.

12 Sec. 15. NEW SECTION. **461.38 Lake restoration account —**
13 **allocations.**

14 A lake restoration account is created in the trust fund.
15 Seven percent of the moneys credited to the trust fund shall
16 be deposited to the account. The department of natural
17 resources shall use moneys in the account to support public
18 lake restoration initiatives as follows:

19 1. An initiative shall account for a lake's recreational,
20 environmental, aesthetic, ecological, and social value. It
21 must improve water quality.

22 2. The department's decision to prioritize an initiative
23 may be based on the department's lake restoration plan and
24 report as provided in section 456A.33B.

25 Sec. 16. CONTINGENT IMPLEMENTATION. This Act shall be
26 implemented on January 1, 2011, if the joint resolution
27 proposing an amendment to the Constitution of the State of Iowa
28 to dedicate a portion of state revenue from the tax imposed on
29 certain retail sales of tangible personal property and services
30 for the benefit of the state's natural resources, as passed for
31 the second time by the general assembly as provided in 2009
32 Iowa Acts, chapter 185, and submitted to the people of the
33 State of Iowa at the general election in November 2010, in the
34 manner required by the Constitution of the State of Iowa and
35 the laws of this state, is ratified.

EXPLANATION

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BACKGROUND. In 2008, the 82nd General Assembly passed Senate Joint Resolution 2002 and in 2009 the 83rd General Assembly passed House Joint Resolution 1 proposing an amendment to the Constitution of the State of Iowa to dedicate a portion of state revenue from the tax imposed on certain retail sales of tangible personal property and services for the benefit of the state's natural resources. The resolution creates a natural resources and outdoor recreation trust fund within the state treasury and not within the general fund of the state. Moneys in the fund cannot be used for any purpose other than protecting and enhancing water quality and natural areas in this state including parks, trails, and fish and wildlife habitat, and conserving agricultural soils in this state. No revenue is credited to the fund until the sales and use tax rate is increased. Whenever the sales tax is increased, the amount generated by the increase is credited to the fund. If approved by a majority of Iowa voters, the constitution of the state is amended effective as of the date of the general election.

GENERAL. The bill creates a new Code chapter referred to as the natural resources and outdoor recreation Act. The bill provides that its purpose is to implement the constitutional purposes of protecting and enhancing water quality and natural areas in this state including parks, trails, and fish and wildlife habitat, and conserving agricultural soils in this state. The fund is administered by the treasurer of state and provides for distributions to support various initiatives to be carried out by the department of natural resources, the department of agriculture and land stewardship, and the state department of transportation. An initiative includes a program, project, practice, strategy, or plan established or administered by an agency that furthers a constitutional purpose as provided in Code section 461.3.

PARTICIPATION. The bill requires the heads of the three

1 departments who make decisions regarding the expenditure of
2 trust fund moneys to consult with bodies that oversee policies
3 concerned with natural resources. The director of the
4 department of natural resources must consult with the natural
5 resource commission, the secretary of agriculture must consult
6 with the state soil conservation committee, and the director of
7 the department of transportation must consult with the state
8 transportation commission. The heads of the three departments
9 must regularly meet together and collaborate when making
10 decisions.

11 ADMINISTRATION. The bill requires annual audits by the
12 auditor of state or a private accounting firm. Finally, the
13 three departments together with the treasurer of state and
14 auditor of state must submit an annual report to the governor
15 detailing the management of the trust fund, decision-making,
16 and the results of expenditures from the trust fund. The bill
17 requires those agencies to adopt rules necessary to carry out
18 their responsibilities.

19 TRUST FUND ESTABLISHED. The bill creates the trust
20 fund, provides that moneys may be credited to the fund as
21 provided by law or accepted by a decision-making department
22 for placement in an account under its control. According to
23 the bill, trust fund moneys shall supplement and not replace
24 moneys appropriated by the general assembly to support the
25 constitutional purposes, must be used to support voluntary
26 initiatives, and shall not be used for regulatory efforts,
27 enforcement actions, or litigation. Moneys in a fund or
28 account remain in the fund or account until expended and retain
29 all earnings.

30 TRUST FUND ALLOCATIONS — OUTDOOR RECREATION ACCOUNT. The
31 bill creates an outdoor recreation account and provides for the
32 allocation of trust fund moneys to the account for use by the
33 department of natural resources to support initiatives related
34 to state lands, wildlife, recreation, natural habitat, rivers
35 and streams, education, and state conservation law enforcement.

1 The department is authorized to deposit trust fund moneys into
2 a number of secondary funds, including the state fish and game
3 protection fund, the state conservation fund, or the county
4 conservation fund.

5 SOIL CONSERVATION AND WATER PROTECTION ACCOUNT. The bill
6 creates a soil conservation and water protection account and
7 provides for the allocation of trust fund moneys into the
8 account for use by the department of agriculture and land
9 stewardship to support initiatives related to soil conservation
10 and watershed protection to support the department's soil
11 conservation division and soil and water conservation
12 district commissioners. The department may also provide for
13 the conservation of highly erodible land and provide for
14 soil conservation or crop management practices used on land
15 producing biomass as a feedstock for biorefineries. The
16 department may allocate trust fund moneys to the conservation
17 practices revolving loan fund, the blufflands protection
18 program and revolving fund, the Loess hills development
19 and conservation fund, the southern Iowa development and
20 conservation fund, and the agricultural drainage well water
21 quality assistance fund.

22 WATERSHED PROTECTION ACCOUNT. The bill creates a watershed
23 protection account and provides for the allocation of trust
24 fund moneys into the account for use by the department of
25 natural resources and the department of agriculture and land
26 stewardship to support initiatives related to water resource
27 initiatives, including for the protection, restoration, or
28 enhancement of water quality in the state, and the installation
29 of vegetation as soil or pollution barriers. The department of
30 agriculture and land stewardship may allocate trust fund moneys
31 in the water protection fund, the organic nutrient management
32 fund, or the watershed improvement fund.

33 IOWA RESOURCES ENHANCEMENT AND PROTECTION FUND. The bill
34 provides for the allocation of trust fund moneys to the Iowa
35 resources enhancement and protection fund for allocations as

1 provided by law.

2 LOCAL CONSERVATION PARTNERSHIP ACCOUNT. The bill creates
3 a local conservation partnership account and provides for
4 the allocation of trust fund moneys into the account for use
5 by the department of natural resources to support community
6 initiatives, including for parks, preserves, wildlife areas,
7 wildlife habitats, native prairies, and wetlands; wildlife
8 diversity; recreation; the improvement of water trails, rivers,
9 and streams; and education and outreach. A local community
10 is limited to a county conservation board, a city, or a
11 nongovernmental organization operating on a nonprofit basis; or
12 a city or county allowed to organize under a Code chapter 28E
13 agreement.

14 TRAILS ACCOUNT. The bill creates a trails account and
15 provides for the allocation of trust fund moneys into the
16 account for use by the department of transportation and
17 the department of natural resources to support the design,
18 establishment, maintenance, improvement, and expansion of land
19 trails and water trails. The department of transportation
20 may use the account to support integrated roadside vegetation
21 management planning and projects and it may allocate a portion
22 of the trust fund moneys to the living roadway trust fund. The
23 department of natural resources may use the trust fund moneys
24 to implement the water trails and low head dam public hazard
25 statewide plan.

26 LAKE RESTORATION ACCOUNT. The bill creates a lake
27 restoration account and provides for the allocation of trust
28 fund moneys into the account for use by the department of
29 natural resources to support initiatives related to lake
30 restoration taking into account a lake's recreational,
31 environmental, aesthetic, ecological, and social value.

32 CONTINGENT IMPLEMENTATION. The bill is to be implemented
33 on January 1, 2011, if the joint resolution proposing the
34 amendment to the Constitution of the State of Iowa is ratified.